

REMARKS

Claims 1, 3-24, and 26-34 are pending in the application.

Claims 1, 3-24, and 26-34 have been rejected.

Claims 1, 7, 15-17, 22, 24 and 27 have been amended as set forth herein. Claim 16 is amended solely to correct a typographical error introduced in an amendment filed June 5, 2009.

Claim 6 has been canceled herein.

Claims 1, 3-5, 7-24, and 26-34 remain pending in this application.

Reconsideration of the claims is respectfully requested. The Applicant makes the aforementioned amendments and subsequent arguments to place this application in condition for allowance. Alternatively, the applicant makes these amendments and offers these arguments to properly frame the issues for appeal.

I. OBJECTION TO THE SPECIFICATION

The Office Action has objected to the phrase “is should be complete” in paragraph [0087]. In response, the Applicant has amended paragraph [0087] as indicated in the previous section. The Applicant respectfully requests that the Objection to the Specification be withdrawn.

II. CLAIM REJECTIONS -- 35 U.S.C. § 112

Claims 1, 15, 22, and 24 were rejected under 35 U.S.C. § 112, first paragraph as claiming subject matter that is not described in the specification in a manner enabling one skilled in the relevant art to make or use the claimed invention. This rejection is respectfully traversed.

The Office Action asserted that Claims 1, 15, 22, and 24 failed to satisfy the written description requirement. Specifically, the Examiner was unable to locate in the specification the element “wherein the processor is configured to output the results of the previous steps onto a computer readable medium.” As the Examiner notes, paragraph [0024] describes (and Figure 1 illustrates) a host computer 102 that includes one or more data storage devices 112, which may include a CD, DVD, hard drive, or other data storage and retrieval device. Furthermore, paragraph [0029] describes database 122, which stores and facilitates retrieval of information used by analysis module 116, constraints module 118, and optimization module 120. As such, the Applicant respectfully submits that Claims 1, 15, 22, and 24 satisfy the written description requirement.

Accordingly, the Applicant respectfully requests that the Examiner withdraw the § 112 rejection of Claims 1, 15, 22, and 24.

III. CLAIM REJECTIONS -- 35 U.S.C. § 103

Claims 1, 5, 8, 13-16, 18, 20-22, 24, 26-28, 30 and 31 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,154,730 to *Adams, et al.*,(hereinafter “Adams”) in view *Christianitytoday.com* (hereinafter “*Christianitytoday.com*”), in further view of U.S. Patent

Publication No. 2003/0233267 to *Hertzel-Szabadi* (hereinafter “Hertzel-Szabadi”), still in further view of *Churchgrowthsoftware.com* (hereinafter “Churchgrowthsoftware.com”), still in further view of U.S. Patent Publication No. 2002/0147623 to *Rifaat* (hereinafter “Rifaat”). Claims 6, 7, 10, and 17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Adams, in view of Christianitytoday.com, in further view of Hertzel-Szabadi, still in further view of Churchgrowthsoftware.com, as applied to claims 1 and 15 above, and further in view of U.S. Patent No. 6,446,053 to *Elliot* (hereinafter “Elliot”).

Claims 11, 19, 23, and 29 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Adams, in view of Christianitytoday.com, in further view of Hertzel-Szabadi, still in further view of Churchgrowthsoftware.com, as applied to claims 1, 15, and 22 above, and further in view of U.S. Patent Publication No. 2002/0099725 to *Gordon* (hereinafter “Gordon”), still in further view of U.S. Patent No. 6,859,768 to *Wakelam* (hereinafter “Wakelam”). Claims 12, 32 and 33 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Adams, in view of Christianitytoday.com, in further view of Hertzel-Szabadi, still in further view of Churchgrowthsoftware.com, as applied to claims 1, 15, and 22 above, and still in further view of “*How Much Can They Give*” (hereinafter “How Much Can they Give”). The Applicant respectfully traverses the rejections.

In *ex parte* examination of patent applications, the Patent Office bears the burden of establishing a prima facie case of obviousness. MPEP § 2142, p. 2100-133 (8th ed. rev. 4, October 2005). Absent such a prima facie case, the applicant is under no obligation to produce evidence of nonobviousness. *Id.* To establish a *prima facie* case of obviousness, three basic criteria must be

met: *Id.* First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. *Id.* Second, there must be a reasonable expectation of success. *Id.* Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *Id.* The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *Id.*

Claim 1 has been amended to recite the elements previously recited in now-canceled Claim 6. Specifically, amended Claim 1 recites the step of generating a schedule of construction projects associated with a corresponding plurality of facilities in a complex, where generating the schedule comprises, for each construction project, receiving from a user an identification of one of a plurality of phases during which the construction project would occur. The Applicant respectfully submits that the cited references do not describe such a step.

In rejecting Claim 6, the Office Action acknowledged that Adams in view of Christianitytoday.com in view of Hertzel-Szabadi in view of Churchgrowthsoftware.com does not describe the step of generating a schedule of construction projects, comprising, for each construction project, receiving from a user an identification of one of a plurality of phases during which the construction project would occur. However, the Office Action asserts that Elliot describes such a step of generating a schedule.

Elliot describes the challenges facing an individual who is considering building or remodeling a house, where the individual is an inexperienced or first-time builder. The challenges include the fact that a large project includes many construction phases. *See Elliot, col. 1, lines 7-25.* Because of this challenge, the application of Elliot “educates the user as it guides the user through a series of construction phases and steps, prompting the user to input critical information and make appropriate selections throughout the series of phases and steps.” *Elliot, Abstract.*

First, the application guides the user through the steps of Phase 1 of Table 1, General Requirements. *See Elliot, col. 7, lines 63-64.* Once the user has entered information relating to Steps 1-5 of Phase 1 (as listed in Table 1), the application guides the user through the steps of Phase 2, Begin Site Work. *See Elliot, col. 8, lines 32-34.* The application’s guidance includes displaying animations of steps in Phase 2, such as excavation and trenching, in order to help the user better understand the building process. *See Elliot, col. 8, lines 45-53.*

After information relating to the steps of Phase 2 has been entered and displayed, the user is guided through subsequent phases of the project, as outlined in Table 1. *See Elliot, col. 8, line 54, through col. 10, line 2.* Clearly, the system described in Elliot identifies for its user the phases and steps of a construction project. This is the opposite of the method recited in amended Claim 1, which receives from a user an identification of a phase during which a construction project will occur.

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For at least these reasons, Claims 1, 15, 22, and 24 (and their dependent claims) are patentable over the cited references. Accordingly, the Applicant respectfully requests withdrawal of the § 103 rejections and full allowance of Claims 1, 3-5, 7-24, and 26-34.

CONCLUSION

As a result of the foregoing, the Applicant asserts that the remaining Claims in the Application are in condition for allowance, and respectfully requests an early allowance of such Claims.

If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at wmunck@munckcarter.com.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

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